

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6064

BILL NUMBER: SB 253

NOTE PREPARED: Jan 20, 2011

BILL AMENDED: Jan 18, 2011

SUBJECT: Bail Bonds.

FIRST AUTHOR: Sen. Waterman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

- A. It provides that every surety for the release on bail of a person who executes a bail bond by depositing cash or securities in an amount not less than 10% of the bail must be: (1) an insurer represented by a bail agent; or (2) a person who is at least 18 years of age, a United States citizen, a resident of Indiana, related to the person for whom release on bail is sought within the third degree of affinity, and the owner of real or tangible personal property in Indiana with a net asset value that is acceptable to the authority approving the bond.
- B. It requires a court to waive a late surrender fee assessed against a bail agent or surety, or extend the period for payment beyond the statutorily permitted period, or both, if: (1) a written request is filed with the court and the prosecutor; and (2) the surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.
- C. It specifies that 40% of the late surrender fees collected under the Indiana bail law must be deposited in the Police Pension Trust Fund, 40% must be deposited in the County Extradition Fund, and the remaining 20% must be deposited in the County Supplemental Public Defender Services Fund.

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: If courts permit criminal defendants to have surety agents deposit cash

with the clerk of the court for pre-trial release, the number of defendants in jail who await trial could be reduced.

Explanation of Local Revenues: Bond Administration Fee – This bill would permit a court to allow a surety to deposit a bail bond with the clerk of the circuit court that is 10% of bail. (See *Explanation of Local Expenditures*.) A portion of the deposit, which would be less than 10% of the monetary value of the bond or \$50, can be retained as an administrative fee.

Counties have reported collecting between \$1.4 M and \$1.7 M each year between 2005 and 2009.

2005	2006	2007	2008	2009
\$1,541,153	\$1,483,807	\$1,754,658	\$1,635,501	\$1,480,253

Late Surrender Fees – Late surrender fees are charged to surety or bail bond agents when the surety or bail agent is not able to produce the defendant when the court requests the defendant to appear in court. This bill could reduce the amount of revenue that is collected from the Late Surrender Fee. It will also redistribute a portion of revenue that is collected from the fee and deposit it into the County Supplemental Public Defender Services Fund.

Waiving Late Surrender Fee – Currently, a court may waive the Late Surrender Fee if the surety agent does not bring a criminal defendant to appear in court. The amount of the Late Surrender Fee will depend on how many days it takes for the surety agent to make the defendant appear in court according to the following table.

Late Surrender Fees	
Number of Days Before Bail Bond Agent Is Able to Produce Defendant After Notice by the Court	Late Surrender Fee as Percentage of Face Value of Bond
Between 120 and 180 days	20%
Between 181 and 210 days	30%
Between 211 and 240 days	50%
Between 241 and 365 days	80%

As proposed, the court would be required to waive the Late Surrender Fee if the surety can provide evidence that satisfies the court that the surety is making diligent efforts to locate the defendant.

Redistributing Revenue from the Late Surrender Fee – Currently, proceeds from the Late Surrender Fee are split evenly between the Police Pension Trust Fund and the County Extradition Fund. As proposed, each of these funds would receive 40% and the County Supplemental Public Defender Services Fund would receive 20%.

According to the *Indiana Judicial Report*, in CY 2009, counties reported collecting from the Late Surrender Fee the following amounts.

2005	2006	2007	2008	2009
\$386,507	\$522,073	\$689,210	\$868,123	\$560,183

The Department of Insurance reports that 381 bail bond agents were registered in 2008.

State Agencies Affected:

Local Agencies Affected: Counties.

Information Sources:

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